

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMY FALLONES Y LABANA, APPELLANT.

G.R. No. 190341. March 16, 2011

Ponente: ABAD, J.

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ABAD, J.:

This case involves the admissibility of the deceased rape victim's spontaneous utterances during the time she was being sexually abused and immediately afterwards.

The Facts and the Case

The public prosecutor charged the accused Romy Fallones y Labana with rape[1] in an amended information dated September 14, 2004 before a Regional Trial Court (RTC).[2]

The complainant in this case, Alice,[3] was a retardate. She died while trial was ongoing, hence, was unable to testify.[4] To prove its case, the prosecution presented Allan (Alice's father), Amalia[5] (her sister), PO3 Lilibeth S. Aguilar (a police investigator), BSDO Eduardo P. Marcelo and BSDO Arturo M. Reyes (the apprehending officers), Dr. Paul Ed D. Ortiz (a medico-legal officer), and Eden H. Terol (a psychologist). The accused testified in his defense.[6]

Amalia testified that at about 9:45 a.m. on June 29, 2004, her mother told her older sister, Alice, to look for their brother Andoy.[7] Since Andoy arrived without Alice, her mother asked Amalia to look for her. Amalia looked in places where Andoy often played and this led her near accused Fallones' house. As she approached the house, Amalia heard someone crying out from within, "Tama na, tama na!" Recognizing Alice's voice, Amalia repeatedly knocked on the door until Fallones opened it. Amalia saw her sister standing behind him. As Amalia went in to take her sister out, Alice held out a sanitary napkin and, crying, said that Fallones had given her the napkin. Alice's shorts were wet and blood-stained. Frightened and troubled, the two girls went home.[8]

On their way home, Alice recounted to her sister that Fallones brought her to his bathroom, pulled down her shorts, and ravished her. She said that Fallones wet her shorts to make it appear that she tripped and had her monthly period.[9] Along the way, they met an uncle and told him what happened. On their arrival, their father brought Alice to the barangay while Amalia returned to Fallones' house where she saw her uncle, some relatives, and neighbors accosting and beating Fallones. Shortly after, some barangay officials arrived and intervened.[10]

Accused Fallones testified that, at about the time and date of the alleged rape, he was at home with his wife, cleaning their house. After his wife left and while he was having his lunch, two men arrived, arrested him at gunpoint, and brought him to the barangay hall. They accused him of raping Alice but he denied the charge. The barangay officials brought him to the police station where he was detained and further interrogated.[11] Again, he denied the accusations.

On July 10, 2007 the RTC rendered a Decision, finding the accused guilty beyond reasonable doubt of simple rape. The RTC sentenced him to suffer the penalty of reclusion perpetua, and ordered him to pay P50,000.00 as

civil indemnity and P50,000.00 as damages. The accused appealed to the Court of Appeals (CA) but the latter court rendered judgment on June 30, 2009, affirming the RTC Decision. Accused Fallones moved for reconsideration but the CA denied his motion, hence, the present appeal to this Court.

The Issue Presented

The core issue in this case is whether or not the CA erred in affirming the RTC's finding that accused Fallones raped Alice, a mental retardate.

The Court's Ruling

Although Alice died before she could testify, the evidence shows that she positively identified Fallones as her abuser before the barangay officials and the police. Amalia, her sister, testified of her own personal knowledge that she had been out looking for Alice that midmorning; that she heard the latter's voice from within Fallones' house imploring her attacker to stop what he was doing to her; that upon repeatedly knocking at Fallones' door, he opened it, revealing the presence of her sister, her shorts bloodied.

The prosecution presented the psychologist who gave Alice a series of psychological tests. She confirmed that Alice had been sexually abused and suffered post-traumatic stress disorder. She found Alice to have moderate mental retardation with a mental age of a five-year-old person, although she was 18 at the time of the incident. On cross-examination, the psychologist testified that while Alice may be vulnerable to suggestions, she had no ability to recall or act out things that may have been taught to her. Neither can anyone manipulate her emotions if indeed she was influenced by others.[12]

Accused Fallones tried to discredit Amalia's testimony as hearsay, doubtful, and unreliable. But, although what Alice told Amalia may have been hearsay, the rest of the latter's testimony, which established both concomitant (Alice's voice from within Fallones' house, pleading that she was hurting) and subsequent circumstance (Alice coming from behind Fallones as the latter opened the door, her shorts bloodied), are admissible in evidence having been given from personal knowledge.

Further, the Court considers a *res gestae* Amalia's recital of what she heard Alice utter when she came and rescued her. *Res gestae* refers to statements made by the participants or the victims of, or the spectators to, a crime immediately before, during, or after its commission. These statements are a spontaneous reaction or utterance inspired by the excitement of the occasion, without any opportunity for the declarant to fabricate a false statement. An important consideration is whether there intervened, between the occurrence and the statement, any circumstance calculated to divert the mind and thus restore the mental balance of the declarant; and afford an opportunity for deliberation.[13] For spontaneous statements to be admitted in evidence, the following must concur: 1) the principal act, the *res gestae*, is a startling occurrence; 2) the statements were made before the declarant had time to contrive or devise; and 3) the statements concerned the occurrence in question and its immediately attending circumstances.[14]

Here, Fallones' act of forcing himself into Alice is a startling event. And Amalia happened to be just outside his house when she heard Alice cry out "tama na, tama na!" When Fallones opened the door upon Amalia's incessant knocking, Alice came out from behind him, uttering "Amalia, may napkin na binigay si Romy o." The admissibility of Alice's spontaneous statements rests on the valid assumption that they were spoken under circumstances where there had been no chance to contrive.[15] It is difficult to lie in an excited state and the impulsiveness of the expression is a guaranty of trustworthiness.[16]

For his defense, Fallones claimed that the members of Alice's family pressured her into pointing to him as her abuser. But he has been unable to establish any possible ill-motive that could prompt Alice's family into charging

him falsely. Indeed, Fallones admitted at the trial that there had been no animosity between Alice's family and him.[17]

Fallones argues that Alice's actuations after the incident negate rape, invoking the Court's ruling in *People v. Dela Cruz*.^[18] But the circumstances of the latter case are far too different from those existing in the present case. In *Dela Cruz*, although the victim was seven years old when the supposed rape took place, she was not mentally retarded. Further, she was already 19 years old when she reported the incident 12 years after it happened. Besides, the medical findings revealed that her hymen remained intact. Thus, the Court did not believe that she had been raped when she was seven.

In sum, the testimony of the witnesses, the physical evidence, the medico-legal finding, and the psychologist's report all establish that Fallones raped Alice. The defense offered no witness or evidence of Fallones' innocence other than his bare denial. Again, the Court will not disturb the RTC's findings and conclusion being the first-hand observer of the witnesses' attitude and behavior during trial. The defense counsel was unsuccessful in impeaching Amalia during cross-examination. In fine, the guilt of the accused has been proved beyond reasonable doubt.

Alice is dead but, as Shakespeare wrote in his *Sonnets--The Winter's Tale*, "the silence often of pure innocence persuades when speaking fails."^[19]

WHEREFORE, the Court DENIES the appeal and AFFIRMS the decision of the Court of Appeals in CA-G.R. CR-HC 03182 dated June 30, 2009.

SO ORDERED.

Carpio, (Chairperson), Velasco, Jr.,[*] Peralta, and Mendoza, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per Special Order 933 dated January 24, 2011.

[1] Records, p. 1, Crim. Case Q-04-127845.

[2] *Id.* at 25.

[3] Pursuant to Republic Act 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules; The real name of the victim, together with the real names of her immediate family members, is withheld and fictitious initials instead are used to represent her to protect her privacy and that of her family. (*People v. Cabalquinto*, GR. No. 167693, September 19, 2006, 502 SCRA 419).

[4] CA rollo, p. 24.

[5] *Id.*

[6] *Id.* at 23, RTC Decision dated July 10, 2007.

[7] *Supra* note 3.

[8] TSN, March 6, 2006, pp. 341-368.

[9] *Id.* at 349, 365.

[10] *Id.* at 351-353.

[11] TSN, March 14, 2007, pp. 370-386.

[12] TSN, December 12, 2005, pp. 323-337.

[13] Marturillas v. People, G.R. No. 163217, April 18, 2006, 487 SCRA 273, 308-309.

[14] Id. at 309.

[15] Id.

[16] Capila v. People, G.R. No. 146161, July 17, 2006, 495 SCRA 276, 281-282.

[17] TSN, February 14, 2007, pp. 383-384.

[18] 388 Phil. 678 (2000).

[19] "Bartlett's Familiar Quotations" by John Bartlett, p. 222, par. 22.

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